

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Referral of Groton Town Clerk

File No. 2019-141

AGREEMENT CONTAINING CONSENT ORDER

This Agreement, by and between David Preka, of the Town of Groton, County of New London, State of Connecticut and the authorized representative of the State Elections Enforcement Commission is entered into in accordance with Section 9-7b-54 of the Regulations of Connecticut State Agencies and Section 4-177 (c) of the General Statutes of Connecticut. In accordance herewith, the parties agree that:

1. The Referring Official is the Groton Town Clerk. She alleged that Respondent David Preka was registered to vote at an address on West Main Street in Groton, cast ballots using that registered address, and ran for municipal office in Groton in 2019 when in fact he was a bona fide resident at a residential address in Waterford.
2. The Referring Official alleged that the Groton address was the business address of the Respondent and that the Respondent had no residential attachment to the property.
3. An elector is eligible to register and vote in a particular town or political subdivision thereof only if such voter is a bona fide resident of such town. General Statutes § 9-12, provides in pertinent part:

(a) Each citizen of the United States who has attained the age of eighteen years, and who is a bona fide resident of the town to which the citizen applies for admission as an elector shall, on approval by the registrars of voters or town clerk of the town of residence of such citizen, as prescribed by law, be an elector, except as provided in subsection (b) of this section. For purposes of this section a person shall be deemed to have attained the age of eighteen years on the day of the person's eighteenth birthday and a person shall be deemed to be a bona fide resident of the town to which the citizen applies for admission as an elector if such person's dwelling unit is located within the geographic boundaries of such town. No mentally incompetent person shall be admitted as an elector. . . .

4. In addition to the statutory prongs of age, citizenship and geographic location identified above, an individual's bona fide residence must qualify as the place where that individual maintains a true, fixed, and principal home to which he or she, whenever transiently relocated, has a genuine intent to return. See, e.g., *In the Matter of a Referral by Manchester Registrars of Voters, Manchester*, File No. 2013-077; *In the Matter of a Complaint by Gary Amato, North Haven*, File No. 2009-158 (2010); *In the Matter of a Complaint by Cicero Booker, Waterbury*, File No. 2007-157.
5. In other words, "bona fide residence" is generally synonymous with domicile. *Id.*; cf. *Hackett v. The City of New Haven*, 103 Conn. 157 (1925); *In the Matter of an Appeal of Gerald J. Porricelli and Marianne Porricelli against the Board for Admission of Electors and Registrars of the Town of Greenwich*, File No. 2007-054.
6. The Commission has concluded, however, that "[t]he traditional rigid notion of 'domicile' has . . . given way somewhat but only to the extent that it has become an impractical standard for the purposes of determining voting residence (i.e., with respect to college students, the homeless, and individuals with multiple dwellings)." (Emphasis added.) *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047 (Emphasis added.). See also *Wit v. Berman*, 306 F.3d 1256, 1262 (2d Cir. 2002) (stating that under certain circumstances the domicile rule for voting residency can give rise to administrative difficulties which has led to a pragmatic application of that rule in New York); *Sims v. Vernon*, Superior Court, Fairfield County, No. 168024 (Dec. 22, 1977) (concluding that an absentee ballot of an individual should be counted as that individual was a bona fide resident of the town in which the ballot was cast.); *Farley v. Louzitis*, Superior Court, New London County, No. 41032 (Oct. 4, 1972) (considering issue of voter residency with respect to college students and stating that "a student, and a nonstudent as well, who satisfies the . . . residence requirement, may vote where he resides, without regard to the duration of his anticipated stay or the existence of another residence elsewhere. It is for him alone to say whether his voting interests at the residence he selects exceed his voting interests elsewhere.") (Emphasis added.)
7. The Commission has previously concluded that "[a]n individual does not, therefore, have to intend to remain at a residence for an indefinite period for that residence to qualify as that individual's bona fide residence." *Referral by Manchester Registrars of Voters, Manchester*, File No. 2013-081; (quoting *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047). Rather, the individual only has to possess a present intention to remain at that residence. *Id.*; see also *Maksym v. Board of Election Com'rs of City of Chicago*, Illinois Supreme Court, Docket No. 111773 (January 27,

2011), 2011 WL 242421 at *8 (“[O]nce residency is established, the test is no longer physical presence but rather abandonment. Indeed, once a person has established residence, he or she can be physically absent from that residence for months or even years without having abandoned it. . . .”)

8. However, in order for a multiple-dwelling examination to be made, the person still must have sufficiently established that such person meets the criteria for bona fide residency in the first place. See *Farley*, above. Then, and only then, may the person choose between such multiple dwellings. *Id.*
9. In *Poricelli*, the Commission acknowledged that in determining whether a dwelling is a person’s “true, fixed, and principal” home to which he or she, whenever transiently relocated, has a genuine intent to return” the Commission acknowledged that Connecticut follows the common law “bedroom rule.”
10. The Commission determined in *Poricelli* that:

In the absence of ‘liner’ statutes, which Connecticut does not have for voting purposes, the general rule under the common law had been *where the individual rests his or her head at night*, or the ‘bedroom rule,’ and not the square footage rule utilized by the Registrars. See *Abington v. North Bridgewater*, 40 Mass. 170, 179 (1830): ‘[I]f a man has a dwellinghouse, situated partly within one jurisdiction and partly in another . . . he shall be deemed an inhabitant within that jurisdiction, within the limits of which he usually sleeps.’ See also *Whitehouse v. Commissioner of Internal Revenue*, 963 F.2d 1 (1st Cir. 1992), *Blaine v. Murphy*, 265 F. 324 (D. Mass 1920); 25 Am. Jur. 2d Domicil §29 (1996). (Emphasis added.)

Poricelli at ¶ 51

11. Registering at an address in which a person is not qualified to register is a violation of General Statutes § 9-12, above, and § 9-20, which reads, in pertinent part:
 - (a) Each person who applies for admission as an elector in person to an admitting official shall, upon a form prescribed by the Secretary of the State and signed by the applicant, *state under penalties of perjury, his name, bona fide residence by street and number, date of birth, whether*

he is a United States citizen, whether his privileges as an elector are forfeited by reason of conviction of crime, and whether he has previously been admitted as an elector in any town in this or any other state. . . . (Emphasis added.)

12. Voting in a referendum, primary, or election in which a person is not qualified is a violation of General Statutes § 9-7b (a)(2)(C), which reads:

(a) The State Elections Enforcement Commission shall have the following duties and powers:

...

(2) To levy a civil penalty not to exceed . . . (C) two thousand dollars per offense against any person the commission finds to have (i) improperly voted in any election, primary or referendum, and (ii) not been legally qualified to vote in such election, primary or referendum,

Investigation

13. By way of background, the investigation revealed that Respondent Preka immigrated to the U.S. at the age of 20 from Albania and became a U.S. citizen in 2009 at the age of 27. Respondent Preka is the founder of Advanced Improvements, LLC, a home renovation business with a headquarters at an address on West Main Street in the historic Mystic section of Groton.
14. At all times relevant to the instant Referral, Respondent Preka, an unaffiliated voter, has made 4 small-dollar contributions to various political committees since 2014, but had no other record of political involvement that the investigation was able to discover.
15. The investigation showed that Mr. Preka first registered to vote in 2009 with a VRA listing a residential address in New London as his bona fide residence. Respondent Preka voted from this address in the 2009 and 2011 municipal general elections.
16. CVRS reflects that on or about July 16, 2012 Respondent Preka submitted a voter registration application to the Groton registrars swearing to a bona fide residence at the address on West Main Street at which his business is located.
17. On or about July 22, 2019, Respondent Preka submitted a Registration by Candidate, SEEC Form 1 to run for Town Council on a slate of candidates funded by the Groton Republican Town Committee. On the form he listed the West Main Street address as his residence.

18. Approximately eight days after the filing of the instant referral on October 23, 2019, Respondent Preka withdrew his candidacy.
19. In an October 31, 2019 article in the Day of New London reporting on the withdrawal, the Chair of the Groton Democratic Town Committee defended Respondent Preka even though they were challenging his candidacy and asserted that the Respondent, a political neophyte and relatively recent naturalized citizen, had been misled into believing that he qualified for the ballot by the Republican Town Committee. Respondent Preka was not quoted as making such a claim, nor did the RTC respond to the allegation in the article.

West Main Street in Groton

20. The investigation here did a thorough review of this property. The property on West Main Street is an historic 1852 residential home in the Mystic section that was converted in the early 2000's to a business property while maintaining its residential exterior appearance.
21. Groton classifies the building as a General Office Building. The zone in which the building is located is approved for mixed use, including both residential and commercial uses.
22. The building has been owned by Chelsea Groton Savings Bank since at least approximately March 2010.
23. The building has been occupied by Advanced Improvements, LLC for approximately 5-7 years.
24. The investigation revealed that while this property maintains a residential character on its exterior, it is outfitted for office use on the inside. There is a full kitchen, but the investigation did not reveal any other trappings and/or evidence of residential living in the space.
25. An investigative interview with a representative of building owner Chelsea Groton Bank confirmed that the terms of the usage of the building with its lessees, including the Respondent's company, is for a commercial use only.
26. While Chelsea Groton Bank maintain that they retain the option of renting out the space residentially, the utilization of the property during all times relevant to the instant Complaint has been entirely commercial.

27. Public records discovered during the investigation indicate that the voter registration was not the only public documents listing this address as Respondent's residence address. Various commercial filings and personal property filings made by Respondent reflected this address as well.
28. Chelsea Groton Bank representative also confirmed that upon the filing of this Referral, they contacted Respondent Preka and informed him that the property could not be used for this purpose, which, according to the representative, came as a surprise to Respondent Preka.

Residential Properties in New London and Waterford

29. Property records in New London reflect that Respondent purchased a residential property in New London in 2007 with his spouse and owned the property until 2019.
30. Property records in Waterford reflect that Respondent purchased a residential property in Waterford with his spouse in 2013 and continues to own the property.
31. The investigation here uncovered various public records listing Respondent's residence address at the Waterford property as well.

Response

32. The Respondent claimed that at the time he registered at the Groton address he had intermittently used the Main Street address as a location where he would lay his head at night. Further, he asserted that while he genuinely intended to permanently establish residence in Groton at the time of registration—albeit, not at the Main Street address—he ultimately decided to establish residence outside of Groton, but failed to update his registration. .
33. In his response, the Respondent acknowledged that he had no specific knowledge regarding voter registration requirements and that any error was inadvertent and unintentional.
34. Both in his response here and in his public response after withdrawing he stated that he only wished to participate more in the community in which he was invested (Groton/Mystic).
35. Finally, he stated in his response that he would “strictly comply with all statutes and ordinances in the future.”

Analysis

36. The matter is straightforward concerning residency and liability. Based upon facts obtained during the investigation, the weight of the evidence shows that, the Respondent was not a bona fide resident at the Groton address when he registered there and voted from there in 2012, 2014, and 2016. As such, he was not eligible to cast the ballots from that address.
37. Accordingly, the Commission concludes that the Respondent violated General Statutes § 9-7b (a) (2) (C) and 9-12 for impermissibly registering to vote, and impermissibly casting a ballot in Groton on 3 occasions.

Resolution

38. General Statutes § 9-7b (a) (2) (A) provides that the Commission may assess a civil penalty of two thousand dollars per offense against any person the commission finds to have (i) improperly voted in any election, primary or referendum, and (ii) not been legally qualified to vote in such election, primary or referendum. Pursuant to Regulations of Connecticut State Agencies § 9-7b-48, in determining the amount of a civil penalty, the Commission shall consider, among other mitigating and aggravating factors:
- (1) the gravity of the act or omission;
 - (2) the amount necessary to insure immediate and continued compliance;
 - (3) the previous history of similar acts or omissions; and
 - (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.
39. Casting a ballot and running for office from an address for which you do not maintain a valid bona fide residence is a serious matter. However, in this instance, no evidence was discovered that any particular race was affected for which the Respondent's vote could have been the deciding ballot.¹
40. There does not appear to be any bad faith at play here. Any claim of legal ignorance is not an excuse, but in this case it appears to at least be genuine. The Respondent operated openly—not only did he register to vote with this address, he filled out a number of other publicly available documents with this address as well.

¹ By contrast, see *In the Matter of a Complaint by Allen Palmer, Groton*, File No. 2007-227, in which the Commission assessed a \$4,000 civil penalty where the respondent's single vote caused a tie in a general assembly primary in the district in which she should not have been voting.

41. Moreover, he publicly ran for office listing an address of a commercial property located prominently in Mystic's historic downtown.
42. Considering the longstanding public association with the property, it was a surprise to the Commission that this issue was not discovered earlier by the Referring Official or any other individual.
43. Upon examination of our cases, the investigation revealed that this Respondent has no prior history in this area.
44. The Commission's recent cases in this area have approached cases involving first-time offenders with restraint when the evidence suggests that the voter simply did not understand that they were no longer permitted to vote at their prior voting address and/or they had not sufficiently established residence.²
45. However, the Commission has recently held voters who are also elected officials in the municipality and/or ran for office to a higher standard, even if such respondent is before the Commission for the first time.
46. *In the Matter of a Complaint by James Millington, Fairfield*, File No. 2017-075 involved two married former Fairfield residents now living in Bridgeport but continuing to vote and stay involved in Fairfield elections—including one who held office. They each voted 5 times at an address at which they did not (or no longer) maintained bona fide residence. This matter settled for a \$250 civil penalty and a henceforth order for each respondent.³
47. *In the Matter of a Complaint by David Mullane, Stratford*, File No. 2017-087 involved a Stratford voter who continued to hold office in Stratford even after moving out of town. He re-registered in Stratford, even though he no longer had a connection to the town, in order

² See, *In the Matter of a Complaint by Peter Massaro, West Haven*, File No. 2018-025 (respondent voted in at least six primaries and elections from address that she owned but at which she no longer lived; henceforth order with no civil penalty); *In the Matter of a Referral by the Greenwich Registrars of Voters*, File No. 2018-004 (violation but henceforth order where voter changed addresses within the same town and did not realize that she was in a new voting district and needed to change her registration); *In the Matter of a Complaint by Bernice C. Bartlett, East Hampton* File No. 2017-059 (violation but henceforth order where voter registered using EDR and cast ballot using address on his license, at which he no longer lived); *In the Matter of a Referral by the Greenwich Registrars of Voters*, File No. 2017-030 (violation but henceforth order where voter cast two ballots over a seven year period from address at which she did not live but which remained on her driver's license).

³ Remittance of the civil penalties was ultimately waived due to the demonstrated financial circumstances of the respondents.

to continue serving on the Housing Authority in that town. This matter settled for a \$300 civil penalty and a henceforth order.

48. See also *In the Matter of a Referral by the Watertown Registrar of Voters*, File No. 2018-113, in which the voter, a green card holder but not yet a citizen, voted in two elections and four referenda. This matter settled for a \$300 civil penalty and a henceforth order.
49. See also, *In the Matter of a Referral by Tina Gardner and Carole Young-Kleinfeld, Wilton*, File No. 2012-175. In *Gardener* the voter continued to remain registered at an address that was previously his family home. Two of the votes were cast after he moved out, but while his parents still owned and resided in the home. A third vote was cast two years after his parents had sold it to someone unknown to him. The Wilton registrars were conscientious in keeping up their lists and moved him to inactive before the third vote, which required the voter to swear an oath that he was a bona fide resident at the address at the time he presented himself to vote. This matter settled for a \$500 civil penalty and a henceforth order.
50. Considering the totality of the circumstances here, compared the facts in *Millington, Mullane, Watertown, and Gardner*, a civil penalty of \$150 per offense is appropriate here.
51. The Respondent admits all jurisdictional facts and agrees that this Agreement and Order shall have the same force and effect as a final decision and Order entered after a full hearing and shall become final when adopted by the Commission. The Respondent shall receive a copy hereof as provided in Section 9-7b-56 of the Regulations of Connecticut State Agencies.
52. The Respondent waives:
 - a. Any further procedural steps;
 - b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
 - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this Agreement.
53. It is understood and agreed that this Agreement will be submitted to the Commission for consideration at its next meeting and, if the Commission does not accept it, it is withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if the same becomes necessary.

54. Upon the Respondent's compliance with the Order hereinafter stated, the Commission shall not initiate any further proceedings pertaining to this matter.

ORDER

IT IS HEREBY FURTHER ORDERED THAT the Respondent will henceforth strictly comply with General Statutes § 9-12; and


IT IS HEREBY FURTHER ORDERED THAT the Respondent shall pay a civil penalty in the amount of six hundred dollars (\$600.00) to the Commission, in full and final resolution of this matter.

The Respondents:



David Preka
Waterford, CT

For the State of Connecticut:


BY: 

Michael J. Brandi, Esq.
Executive Director and General Counsel and
Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT

Dated: 4/30/2021

Dated: 5/17/2021

Adopted this 5th day of May of 2021 at Hartford, Connecticut



Stephen T. Penny, Chair
By Order of the Commission